

Amendment No. 1 to SB2233

Johnson
Signature of Sponsor

AMEND Senate Bill No. 2233

House Bill No. 1809*

by deleting all language after the enacting clause and substituting instead the following:

SECTION 1. Tennessee Code Annotated, Section 62-4-101, is amended by deleting the section in its entirety and substituting instead the following:

This chapter shall be known and may be cited as the "Tennessee Cosmetology and Barbering Act."

SECTION 2. Tennessee Code Annotated, Section 62-4-102(a)(3), is amended by deleting the language "Cosmetology" and substituting instead the language "Cosmetology/barbering", used together or separately.

SECTION 3. Tennessee Code Annotated, Section 62-4-102(a)(3)(H), is amended by deleting the language "safety".

SECTION 4. Tennessee Code Annotated, Section 62-4-102(a)(4), is amended by deleting the subdivision in its entirety and substituting instead the following:

"Cosmetology/barber shop" means any place of business where any person engages or offers to engage in any practice of cosmetology/barbering for a fee or other form of compensation, but does not include a manicure shop or skin care shop;

SECTION 5. Tennessee Code Annotated, Section 62-4-102(a)(5), is amended by deleting the language "chapter 3 or chapter 4 of this title" and substituting instead the language "this chapter".

SECTION 6. Tennessee Code Annotated, Section 62-4-102(a)(6), is amended by deleting the subdivision in its entirety and substituting instead the following:

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(6) "Dual shop" means any shop licensed by the board where services are performed or offered to be performed in more than one (1) field of cosmetology/barbering, including aesthetics, natural hair styling, and manicuring. A dual shop does not include a shop licensed solely as a single specialty of cosmetology/barbering;

SECTION 7. Tennessee Code Annotated, Section 62-4-102(a)(8), is amended by deleting the language "cosmetologist's, manicurist's, aesthetician's or natural hair stylist's license" and substituting instead the language "cosmetologist's/barber's, manicurist's, aesthetician's, or natural hair stylist's license ".

SECTION 8. Tennessee Code Annotated, Section 62-4-102(a)(9), is amended by deleting the language "cosmetologist's, manicurist's, aesthetician's or natural hair stylist's license" and substituting instead the language "cosmetologist's/barber's, manicurist's, aesthetician's, or natural hair stylist's license".

SECTION 9. Tennessee Code Annotated, Section 62-4-102(a)(10), is amended by deleting the language "chapter 3 or chapter 4 of this title" and substituting instead the language "this chapter".

SECTION 10. Tennessee Code Annotated, Section 62-4-102(a)(12), is amended by deleting the subdivision in its entirety and substituting instead the following:

"Managing cosmetologist/barber" means a licensed cosmetologist/barber who is designated by the owner of a cosmetology/barber shop to be responsible for supervising the operation of the shop and its employees;

SECTION 11. Tennessee Code Annotated, Section 62-4-102(a)(16), is amended by deleting the language "barber shop, cosmetology shop" and substituting instead the language "cosmetology/barber shop".

SECTION 12. Tennessee Code Annotated, Section 62-4-102(a)(21), is amended by deleting the language "cosmetology" and substituting instead the language "cosmetology/barbering".

SECTION 13. Tennessee Code Annotated, Section 62-4-102(a)(23), is amended by deleting the subdivision in its entirety and substituting instead the following:

(23) "Shop" means a cosmetology/barber shop, manicure shop, skin care shop, or natural hair styling shop;

SECTION 14. Tennessee Code Annotated, Section 62-4-102(a)(25), is amended by deleting the language "cosmetology" wherever it appears and substituting instead the language "cosmetology/barbering".

SECTION 15. Tennessee Code Annotated, Section 62-4-102(a)(20), is amended by deleting the subdivision in its entirety and renumbering the remaining subdivisions appropriately.

SECTION 16. Tennessee Code Annotated, Section 62-4-102(a), is amended by inserting the following new subdivisions:

() "Residential cosmetology/barber certificate" means a certificate of registration for the provision of residential services issued by the board;

() "Residential services" means services a person is licensed to provide under this chapter when those services are provided in the residence of the person for whom the services are being rendered;

SECTION 17. Tennessee Code Annotated, Section 62-4-102(b), is amended by deleting the language "cosmetology" and substituting instead the language "cosmetology/barbering".

SECTION 18. Tennessee Code Annotated, Section 62-4-103(b)(2), is amended by deleting the subdivision in its entirety and substituting instead the following:

(2) The membership of the board shall include the following persons:

(A) Five (5) cosmetologists/barbers;

(B) One (1) manicurist;

(C) One (1) aesthetician;

(D) One (1) cosmetology/barber instructor;

(E) One (1) natural hair stylist;

(F) One (1) cosmetology/barber shop owner;

(G) Two (2) owners of cosmetology/barber schools licensed by the board;

(H) One (1) public member, who shall be a person who holds a baccalaureate degree with a major in education who is not engaged in the occupation of cosmetology/barbering; and

(I) One (1) public member who shall be a person at least twenty-one (21) years of age, who is not required to meet the educational degree requirements as the public member listed in subdivision (b)(2)(H), and who is not engaged in the occupation of cosmetology/barbering.

SECTION 19. Tennessee Code Annotated, Section 62-4-103(b), is amended by deleting subdivisions (3) through (7) in their entireties and substituting instead the following:

(3) Each of the members described in subdivisions (b)(2)(A)-(G) shall be licensed in their respective trades in this state for at least five (5) years immediately preceding their date of appointment.

(4) No cosmetologist/barber member shall, while serving on the board, be an instructor, owner, or manager of a school of cosmetology/barbering, an employee of such a school, or connected with such a school in any manner.

(5)

(A) The public member listed in subdivision (b)(2)(H) shall participate in all activities of the board, except the inspection of a school of cosmetology/barbering.

(B) The public member listed in subdivision (b)(2)(I) shall participate in all activities of the board, except the composition of examinations, administration of practical portions of examinations, and inspection of a school of cosmetology/barbering.

(6) The owners of schools licensed by the board or the instructors licensed by the board shall be entitled to participate in all activities of the board, except administration of examinations and inspection of schools of cosmetology/barbering.

SECTION 20. Tennessee Code Annotated, Section 62-4-104(b)(3), is amended by deleting the subdivision in its entirety and substituting instead the following:

(3) Of the members initially appointed:

(A) One (1) cosmetology/barbering school owner member, the manicurist member, and the public member listed in § 62-4-103(b)(2)(I) shall serve terms of one (1) year;

(B) Two (2) cosmetologist/barber members and one (1) cosmetology/barber school owner member shall serve terms of two (2) years;

(C) Two (2) cosmetologist/barber members, the cosmetology/barber shop owner member, and the cosmetology/barber instructor member shall serve terms of three (3) years; and

(D) The aesthetician member, the natural hair stylist member, one (1) cosmetologist/barber member, and the public member listed in § 62-4-103(b)(2)(H) shall serve terms of four (4) years.

SECTION 21. Tennessee Code Annotated, Section 62-4-108, is amended by deleting the language "cosmetology, manicuring, aesthetics, or natural hair styling" and substituting instead the language "cosmetology/barbering, manicuring, aesthetics, or natural hair styling".

SECTION 22. Tennessee Code Annotated, Section 62-4-109(a)(4), is amended by deleting the language "cosmetology services" and substituting instead the language "cosmetology/barbering services".

SECTION 23. Tennessee Code Annotated, Section 62-4-109(a)(6), is amended by deleting the language "board of cosmetology and barber examiners" and substituting instead the language "board of cosmetology/barber examiners".

SECTION 24. Tennessee Code Annotated, Section 62-4-109(a)(6), is further amended by deleting the language "licensed school of cosmetology" and substituting instead the language "licensed school of cosmetology or of cosmetology/barbering".

SECTION 25. Tennessee Code Annotated, Section 62-4-110, is amended by deleting the section in its entirety and substituting instead the following:

(a) A person who desires a cosmetologist's/barber's license shall submit an application for examination to the board on the prescribed form. The application must be accompanied by:

(1) A nonrefundable, nontransferable application/examination fee as set by the board;

(2) Satisfactory proof that the applicant is at least sixteen (16) years of age; and

(3) Satisfactory proof that the applicant has completed and passed a course of instruction of no less than one thousand five hundred (1,500) hours in practice and theory at a school of cosmetology/barbering.

(b) A person who desires a license to practice manicuring only shall submit an application for examination to the board on the prescribed form. The application must be accompanied by:

(1) A nonrefundable, nontransferable application/examination fee as set by the board; and

(2) Satisfactory proof that the applicant is at least sixteen (16) years of age and has completed and passed a course of instruction of no less than six hundred (600) hours in the practice and theory of manicuring at a school of cosmetology/barbering.

(c) A person who desires a license to instruct in a school shall submit an application for examination to the board on the prescribed form. The application must be accompanied by:

(1) A nonrefundable, nontransferable application/examination fee as set by the board; and

(2) Satisfactory proof that the applicant:

(A) Is a high school graduate, evidenced by a certificate or diploma or possesses a general equivalency diploma (GED®);

(B) Holds a valid cosmetologist's/barber's, manicurist's, aesthetician's, natural hair stylist's, or cosmetologist/barber technician's license issued by the board;

(C) Has completed and passed a board-approved course in instructor training of at least three hundred (300) hours within a period of six (6) months as an instructor trainee or has served as a junior instructor for a minimum of one (1) year;

(D) Has been licensed as a cosmetologist/barber, aesthetician, manicurist, natural hair stylist, or cosmetologist/barber technician

pursuant to this chapter for at least three (3) continuous years. However, a license converted under § 62-4-139 is considered to have been licensed as of the issuance date of the original license; and

(E) Seeks to instruct only in the area in which the applicant is currently licensed.

(d) A person who desires a license to practice aesthetics only shall submit an application for examination to the board on the prescribed form. The application must be accompanied by:

(1) A nonrefundable, nontransferable application/examination fee as set by the board; and

(2) Satisfactory proof that the applicant is at least sixteen (16) years of age and has completed and passed a course of instruction of no less than seven hundred fifty (750) hours in the practice and theory of aesthetics at a school of cosmetology/barbering.

(e) Any person who desires a natural hair styling license shall submit an application for examination to the board on the prescribed form. The application must be accompanied by:

(1) A nonrefundable, nontransferable application/examination fee as set by the board; and

(2) Satisfactory proof that the applicant is at least sixteen (16) years of age and has completed and passed a course of instruction of no less than three hundred (300) hours in the practice and theory of natural hair styling at a school of cosmetology/barbering.

SECTION 26. Tennessee Code Annotated, Section 62-4-113(a), is amended by deleting the language "cosmetologist, aesthetician, manicurist, natural hair stylist or instructor"

and substituting instead the language "cosmetologist/barber, aesthetician, manicurist, cosmetologist/barber technician, natural hair stylist, or instructor".

SECTION 27. Tennessee Code Annotated, Section 62-4-113(b), is amended by deleting the language "cosmetologist, aesthetician, manicurist, natural hair stylist or instructor" and substituting instead the language "cosmetologist/barber, aesthetician, manicurist, natural hair stylist, or instructor ".

SECTION 28. Tennessee Code Annotated, Section 62-4-114, is amended by deleting the section in its entirety and substituting instead the following:

(a)

(1) To maintain an active instructor's license, an instructor shall submit to the board satisfactory proof every two (2) years that the instructor has attended a board-approved instructor training program in cosmetology/barbering, manicuring, aesthetics, or natural hair styling for a minimum of sixteen (16) hours. Persons obtaining an initial instructor's license shall attend a board-approved instructor training program in cosmetology/barbering, manicuring, aesthetics, or natural hair styling after receiving the licenses.

(2) The board may, in its discretion, grant up to one (1) additional year for submission of proof upon a showing of good cause, including, but not limited to, illness or emergency. However, no extension of time shall relieve an instructor from meeting any future deadline for compliance with this subsection (a).

(3) The active license of any instructor who fails to comply with this subsection (a) shall become invalid and nonrenewable.

(b) Before an instructor's license expires, an instructor may notify the board of the instructor's intention to place the license on inactive status. The notice of intention must be accompanied by the regular license fee, but the instructor is relieved of the obligation to attend the otherwise required board-approved training program. An

instructor may stay on inactive status as long as the appropriate fees are paid on a regular basis. To change a license from inactive status to active status, the instructor shall attend a board-approved instructor training program in cosmetology/barbering, manicuring, aesthetics, or natural hair styling for a minimum of sixteen (16) hours.

(c) Any person who holds a valid active license as a cosmetology/barbering, manicuring, aesthetics, or natural hair styling instructor may engage in the practice of cosmetology/barbering, manicuring, aesthetics, or natural hair styling under that license. However, no instructor may render cosmetology/barbering, manicuring, aesthetics, or natural hair styling services in a school, except services that are directly incidental to the instruction of students.

(d) Any person whose instructor's license expires or becomes invalid may, within sixty (60) days after the date of expiration or invalidity, obtain a cosmetologist's/barber's, manicurist's, aesthetician's, or natural hair stylist's license from the board upon payment of a fee set by the board.

SECTION 29. Tennessee Code Annotated, Section 62-4-115(2), is amended by deleting the language "cosmetologist, aesthetician, manicurist, natural hair stylist or instructor" and substituting instead the language "cosmetologist/barber, aesthetician, manicurist, natural hair stylist, instructor, or cosmetologist/barber technician".

SECTION 30. Tennessee Code Annotated, Section 62-4-117(a), is amended by deleting the language "cosmetologist, aesthetician, manicurist, natural hair stylist and instructor licenses" and substituting instead the language "cosmetologist/barber, aesthetician, manicurist, natural hair stylist, and instructor licenses".

SECTION 31. Tennessee Code Annotated, Section 62-4-117(e), is amended by deleting the language "both cosmetology" and substituting instead the language "cosmetology/barbering".

SECTION 32. Tennessee Code Annotated, Section 62-4-118(m), is amended by deleting the subsection in its entirety and substituting instead the following:

(m) The board may promulgate rules necessary to allow for a shop where services are performed or offered to be performed in more than one (1) field of cosmetology/barbering, including aesthetics, natural hair styling, and manicuring, to operate as a dual shop, including, but not limited to, rules to allow a dual shop to pay a single licensure or renewal fee and to undergo a single inspection.

SECTION 33. Tennessee Code Annotated, Section 62-4-119(1), is amended by deleting the language "cosmetology" and substituting instead the language "cosmetology/barbering".

SECTION 34. Tennessee Code Annotated, Section 62-4-122, is amended by deleting the language "cosmetology" wherever it appears and substituting instead the language "cosmetology/barbering".

SECTION 35. Tennessee Code Annotated, Section 62-4-124, is amended by deleting the language "cosmetology" wherever it appears and substituting instead the language "cosmetology/barbering".

SECTION 36. Tennessee Code Annotated, Section 62-4-125(d)(2), is amended by deleting the subdivision in its entirety and substituting instead the following:

(2) For any person, firm, or corporation that holds a cosmetology/barbering, manicurist, cosmetologist/barber technician, or aesthetician license to practice cosmetology/barbering outside a shop or school, or for any person, firm, or corporation that holds a natural hair styling license to practice natural hair styling outside a shop or school, except:

- (A) In any nursing home;
- (B) In the residence of the person treated when the person is actually ill;
- (C) In any hospital or infirmary;

(D) In a funeral establishment;

(E) In a retail establishment, to demonstrate or apply, or both, cosmetics without charge;

(F) At the site of television, motion picture, video or theatrical productions, photographic sessions, or similar activities;

(G) In a licensed mobile shop; or

(H) If a person is not otherwise exempt under subdivisions (d)(2)(A)-(G), residential cosmetology/barbering services provided by a person with a valid residential cosmetology/barbering certificate issued under § 62-4-140.

SECTION 37. Tennessee Code Annotated, Section 62-4-127(b)(4), is amended by deleting the language "cosmetology" and substituting instead the language "cosmetology/barbering".

SECTION 38. Tennessee Code Annotated, Section 62-4-133, is amended by deleting the language "cosmetology" wherever it appears and substituting instead the language "cosmetology/barbering".

SECTION 39. Tennessee Code Annotated, Title 62, Chapter 4, is amended by adding the following as new sections:

62-4-139.

(a) Any valid master barber license in effect on January 1, 2019, shall be converted to a cosmetologist/barber license.

(b)

(1) Any valid barber school certificate of registration in effect on January 1, 2019, shall be converted to a cosmetology/barber school license with the same expiration date as the existing license, and any license renewed after that date shall be a cosmetologist/barber school license.

(2) Cosmetology/barber schools shall comply with all rules and laws regarding equipment and physical dimensions for such schools by their next renewal of the certificate of registration occurring on or after January 1, 2019. Such schools must comply with all other requirements regarding their operation on and after January 1, 2019.

(3) The director of the board may exempt a school from compliance requirements for up to one (1) year from the date of the school's next certificate of registration renewal. Failure to comply with such requirements after the exemption period has ended constitutes a violation of this part.

(c)

(1) Any valid barber shop certificate of registration in effect on January 1, 2019, shall be converted to a cosmetology/barber shop license with the same expiration date as the existing license.

(2) Cosmetology/barber shops shall be required to comply with all rules and laws regarding equipment and physical dimensions for a cosmetology/barber shop by their next license renewal date occurring on or after January 1, 2019. Such shops must comply with all other requirements regarding their operation on and after January 1, 2019; provided, however, that cosmetology/barber shops that were previously registered as barber shops prior to the conversion under subdivision (c)(1) and whose registration has been continually renewed, or reinstated within any applicable grace period, shall not be required to comply with requirements regarding the physical dimensions of the shop so long as they continue to comply with the physical dimension requirements for barber shop registration at the time of the conversion.

(3) Notwithstanding subdivision (c)(2), the director of the board may exempt a cosmetology/barber shop from compliance requirements for up to one

(1) year from the date of the shop's next certificate of registration renewal.

Failure to comply with such requirements after the exemption period has ended constitutes a violation of this part.

(d) Any person holding a valid barber technician license on January 1, 2019, shall be entitled to renew the license as a cosmetologist/barber technician in accordance with rules promulgated by the board. A barber technician license that is not renewed within one (1) year of expiration shall not be reinstated. A cosmetologist/barber technician license shall allow the person to apply tints or dyes to the hair, shampoo hair, manicure nails, and apply cosmetic preparations, antiseptics, powders, oils, clays, or lotions to the scalp, face, neck, or other parts of the body. No new barber technician or cosmetology/barber technician licenses shall be issued after December 31, 2018.

(e) Any valid residential barber certificate of registration in effect on January 1, 2019, shall be converted to a residential cosmetology/barber certificate with the same expiration date as the existing certificate of registration.

(f) Any person who has completed courses at a licensed school of barbering may be given hour-for-hour credits toward a cosmetology/barber, aesthetician, natural hair styling, or manicuring certificate of registration if the courses were completed within the time the person would have been able to use those courses toward licensure had they been completed at a cosmetology/barber school. Such courses must be reasonably comparable, in the discretion of the board or the director of the board, to courses that would be accepted toward the license for which the applicant is applying. Further, credit may be given for training as a barber instructor under previous law to a person applying to become a cosmetology/barber instructor. The board may recognize experience, training, or education as a barber or barber technician as cosmetology/barbering training for any purpose under this chapter.

(g) The board may issue a cosmetologist/barber license without examination to a nonresident person who:

(1) Holds a valid license or certificate of registration as a master barber in another jurisdiction that:

(A) Has substantially the same requirements for licensing or registration of cosmetologists/barbers as are contained in this chapter; or

(B) Has entered into a reciprocal agreement with the board permitting licenses or certificates of registration to be issued without examination to master barbers residing in and registered by this state;

(2) Proves by sworn affidavits that the nonresident has continuously and lawfully practiced as a barber in another jurisdiction for the immediately preceding five (5) years; or

(3) Has held a military occupational skill (MOS) rating in a branch of the armed services for two (2) or more years that required the person to perform the duties of a barber.

(h) A person who holds a valid license or certificate of registration as a barber technician or barber instructor under the laws of a state, the District of Columbia, a territorial possession of the United States, or a foreign country may be issued a license under this chapter, if the board determines that the person has substantially met the qualifications for such a license in this state.

(i) Any license converted under this section that was retired or inactive at the time of the conversion shall be issued as retired or inactive, as appropriate.

(j) No new master barber, barber shop, barber school, or barber technician licenses, registrations, or certificates shall be issued after December 31, 2018.

(k) Any master barber or barber instructor certificate of registration converted under this section, including such a certificate of registration that was expired at the time

of the conversion and that has lapsed for three (3) years or longer shall not be reinstated unless the applicant passes any examinations that may be required for the issuance of the license.

(l) Any barber school certificate of registration converted under this section may be reinstated under the same conditions set forth in § 62-4-121 for the reinstatement of a cosmetology/barber school certificate of registration.

(m) Renewal for a barber shop certificate of registration converted under this section shall be the same as renewal for a cosmetology/barber shop otherwise licensed by the board.

62-4-140.

(a) No person may provide residential services without a valid residential cosmetology/barber certificate issued by the board pursuant to this section. However, nothing in this part requires a person meeting an exception to providing services in a cosmetology/barber shop under § 62-4-125 to obtain a residential cosmetology/barber certificate unless that certificate is the basis for the exception. Application for a residential cosmetology/barber certificate must be made upon application forms furnished by the board.

(b) The board shall issue a residential cosmetology/barber certificate to an applicant who:

(1) Holds a valid, current certificate of registration as a cosmetologist/barber, aesthetician, barber technician, natural hair stylist, or manicurist;

(2) Pays an application fee set by rules promulgated by the board, with the moneys collected from such fees not to exceed the cost of administering this section;

(3) Pays an initial registration fee set by rules promulgated by the board;
and

(4) Undergoes and passes an initial inspection of the equipment used to provide residential services in accordance with rules promulgated by the board.

(c) A residential cosmetology/barber certificate is subject to renewal at the same time that the registrant's license is subject to renewal. The renewal fee for a residential cosmetology/barber certificate shall be set by rules promulgated by the board.

(d) The board may promulgate rules regarding health and safety requirements for cosmetologists/barbers providing residential services.

(e)

(1) The board may refuse to issue or renew, or may suspend or revoke, any residential cosmetology/barber certificate pursuant to this section for any of the reasons set forth in § 62-4-127.

(2) The board shall revoke any residential cosmetology/barber certificate issued pursuant to this section if the registrant's license to practice under this chapter expires or is revoked.

(3) If a registrant's license to practice under this chapter is suspended, the board shall also suspend the registrant's residential cosmetology/barber certificate, if any.

(f) Any licensee providing residential services shall, prior to performing such services, make the licensee's residential cosmetology/barber certificate available for review to the person for whom the services are being rendered.

62-4-141.

(a) The title on a cosmetologist/barber license shall read "Cosmetologist/Barber" and a licensed cosmetologist/barber shall be entitled to hold themselves out as a barber, a cosmetologist, or a cosmetologist/barber.

(b) The title on a cosmetology/barber technician license shall read "Cosmetology/Barber Technician".

(c) The title on a cosmetology/barber school license shall read "Cosmetology/Barber School", and such schools may use a trade name that includes the language "barber", "cosmetologist", or "cosmetologist/barber".

(d) The title on a cosmetology/barber shop license shall read "Cosmetology/Barber Shop", and such shops may use a trade name that includes the language "barber", "cosmetologist", or "cosmetologist/barber".

SECTION 40. Tennessee Code Annotated, Title 62, is amended by deleting chapter 3 in its entirety.

SECTION 41. Tennessee Code Annotated, Section 68-211-206(a), is amended by deleting the language "§ 62-3-128,".

SECTION 42. Tennessee Code Annotated, Section 4-29-239(a)(38), is amended by deleting the language "§ 62-3-101 and".

SECTION 43. Tennessee Code Annotated, Section 37-5-212, is amended by deleting the language "barbering" and substituting instead the language "cosmetology/barbering".

SECTION 44. Tennessee Code Annotated, Section 49-7-2004(a)(7), is amended by deleting subdivision (A) and substituting instead the following:

Institutions operated solely as auction schools, cosmetology/barber schools, or schools of electrology; provided, that any cosmetology/barber school licensed or registered with the board of cosmetology/barbering that is eligible for or chooses to seek eligibility for federal student financial aid programs under the Higher Education Act of 1965, as amended (20 U.S.C. §§ 1001-1161aa-1) shall be subject to all requirements of this part;

SECTION 45. Tennessee Code Annotated, Section 62-7-112(a), is amended by deleting the language "barber shop" wherever it appears and substituting instead the language "cosmetology/barber shop".

SECTION 46. For the purpose of promulgating rules, this act shall take effect upon becoming a law, the public welfare requiring it. For all other purposes, this act shall take effect January 1, 2019, the public welfare requiring it.